M/D 1

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DEBRA P. HACKETT, CLK
U.S. DISTRICT COURT
MIDDLE DISTRICT ALA

IN THE UNITED STATES DISTRICT COURT FOR
THE MIDDLE DISTRICT OF ALABAMA

Darryle Lee Thomas
Full name and prison name of
Plaintiff(s)

v.

Alabama Department of Corrections Commissioner Jefferson Dunn, Warden Walter Myers et Al. defendants (in their individual capacities)
Name of person(s) who violated your constitutional rights. (List the names of all the person.)

CIVIL ACTION NO. 2:17-cv-654-MHT-TFM
(To be supplied by Clerk of U.S. District Court)

I. PREVIOUS LAWSUITS

A. Have you begun other lawsuits in state or federal court dealing with the same or similar facts involved in this action? YES ☐ No ☑

B. Have you begun other lawsuits in state or federal court relating to your imprisonment? YES ☐ NO ☑

C. If your answer to A or B is yes, describe each lawsuit in the space below. (If there is more than one lawsuit, describe the additional lawsuits on another piece of paper, using the same outline.)

1. Parties to this previous lawsuit:

Plaintiff (s) Darryle Lee Thomas
E.C.F. 200 Wallace Dr, Clio, Al 36017

Defendant(s) Commissioner Jefferson Dunn ADOC
301 South Ripley St. Montgomery Al. 36130

2. Court (if federal court, name the district; if state court, name the county)
United states District Court for The middle District of Alabama

3. Docket number N/a

4. Name of judge to whom case was assigned N/a

5. Disposition (for example: was the case dismissed? Was it appealed? Is it still pending ?) N/a

6. Approximate date of filing lawsuit N/a

7. Approximate date of disposition N/a

II. PLACE OF PRESENT CONFINEMENT Easterling Correctional Facility

PLACE OR INSTITUTION WHERE INCIDENT OCCURRED Easterling Correctional Facility

III. NAME AND ADDRESS OF INDIVIDUAL(S) YOU ALLEGE VIOLATED YOUR CONSTITUTIONAL RIGHTS.

NAME	ADDRESS
1. Commissioner Jefferson Dunn	Alabama Dept of Corrections 301 South Ripley Street Montgomery, Al, 36130-1501
2.	
3. Warden Walter Myers	Easterling Correctional Facility 200 Wallace Dr Clio, Al, 36017
4.	
5.	
6.	

IV. THE DATE UPON WHICH SAID VIOLATION OCCURRED July 5 (2017) through ongoing.

V. STATE BRIEFLY THE GROUNDS ON WHICH YOU BASE YOUR ALLEGATION THAT YOUR CONSTITUTIONAL RIGHTS ARE BEING VIOLATED:

GROUND ONE: Defendant Dunn, being sued in his individual capacity as being the authority over the Alabama Department of Corrections. see complaint supported applicable at P. 1 of 10

STATE BRIEFLY THE FACTS WHICH SUPPORT THIS GROUND. (State as best you can the time, place and manner and person involved.)

See complaint under section 42 U.S.C. §§ 1983 and 28 U.S.C §§ section 1331. see page 2 of 10

GROUND TWO: see complaint supported §§ 1983 Darryle Lee Thomas, page 2 of 10.

SUPPORTING FACTS: see statement of The violation(s) complaint at page 3 of 10, and 4 of 10.

GROUND THREE: plaintiffs claim of constitutionality in the violations of the civil Rights by the defendant(s), see page 4 of 10. complaint at 4-of 10.

SUPPORTING FACTS: plaintiff states here at Easterling Correctional facility is very injurious to the mental heath of plaintiff. plaintiff claims the defendants have closed the Judicial eyes to the "plaintiff" and the "Public" to the reality of the prison conditions in which plaintiff complaints that there is a grave and immediate Threat begans and is not limited. see p.4 of 10. complaint.

VI. STATE BRIEFLY EXACTLY WHAT YOU WANT THE COURT TO DO FOR YOU. MAKE NO LEGAL ARGUMENT. CITE NO CASES OR STATUTES.

Plaintiff Request to be awarded one Hundred Thousand dollars against Defendant Jefferson Dunn in his individual capacity and award against Defendant Walker Myers in his individual capacity to grant plaintiff injunction and declaratory relief.

Darryle Lee Thomas
Signature of plaintiff(s)

I declare under penalty of perjury that the foregoing is true and correct.

Executed on 26th Sept 2017.
(Date)

Darryl Lee Thomas
Signature of plaintiff(s)

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA

RECEIVED
2017 SEP 29 A 10: 28
DEBRA P. HACKETT, CLK
U.S. DISTRICT COURT
MIDDLE DISTRICT ALA

DARRYLE LEE THOMAS
268749

VS.

CIVIL ACTION NO.
2:17-cv-654-MHT-TFM

ALABAMA DEPARTMENT OF CORRECTIONS. COMMISSIONER JEFFERSON DUNN. WARDEN WALTER MYERS et al.
defendants
(in their individual capacities)

COMPLAINT UNDER SECTION 42 U.S.C 1983 AND 28 USC SECTION 1331

This is a complaint under § 42 U.S.C. §§ 1983 in accordance to § 28 U.S.C. §§ 1331 a lawsuit against the individuals listed below in their individual capacities as follows:

Commissioner Jefferson Dunn is being sued in his individual capacity as being the authority over the Alabama Department of Corrections Wardens.

The commissioners address is located at 301 South Ripley Street in Montgomery Alabama at 36130-1501.

Warden Walter Myers is being sued in his individual capacity as being under the authority of Commissioner Jefferson Dunn and over the Easterling Correctional Facility. Warden Walter Myers address is located at 200 Wallace Dr., in Clio Alabama at 36017 inwhich inmate Darryle Lee Thomas AIS # 268749 complains of and from.

Daryle Lee Thomas [hereinafter "plaintiff"] is currently serving a twenty year sentence for an offense of § 13A-6-69.1, Alabama Code (1975) here, Easterling Correctional Facility. Plaintiff complains that the named individuals are violating plaintiffs rights ... guaranteed rights of the United States Constitution and the Alabama Constitution (1901) by delibertly exposing plaintiff to the grossly under staffed conditions here at Easterling Correctional Facility inwhich puts plaintiff "at" and "in" a mental strain being in fear for his Life, Liberty and mental capacity.

STATEMENT OF THE VIOLATION(S)

Commissioner Jefferson Dunn acting under the color of Alabama State Law is violating plaintiffs Constitutional rights under the color of the United States Laws and the Code of Alabama (1975)

Commissioner Jefferson Dunn [herein after "defendant"] is depriving plaintiff of his guranteed rights found in the 1st, 5th, 6th, 8th, 9th, 10th, 13th and 14th Amendments of the United States Constitution of the right to be safe while being incarcerated in the Alabama Department of "Corrections". For example in Jackson v. Godwin, 400 F.2d 529. 539 (5th Cir. 1968). We remonstrated that once an individual is incarcerated, any further restraints or "deprivations in excess of inherent in the sentence and in the normal structure of prison life should be subject to judicial scrutiny. and we amplified these concerns in Campbell v. Beto, 460 F.2d 765, 768 (5th Cir. 1972) observing that:

> whatever may be the outer contours of the prison discipline rule; it is apparent that the courts cannot close their judicial eyes to prison conditions which present a grave and immediate

threat to health or physical well being..... If the deprivation of basic elements of hygiene has consistently been held violative of constitutional guarantees.... then certainly practices which result in the deprivation of basic elements of adequate medical treatment; particularly such deprivations as immediatly threatens Life and Limb, would be equally vulnerably. See Campbell v. Beto, Id.

Plaintiffs claim of Constitutionality in the violations of the Civil Rights implemented by the defendant(s) here at Easterling Correctional Facility is very injurious to the mental heath of plaintiff. Plaintiff claims the defendants have closed the judicial eyes to the "plaintiff" and the "public" to the reality of the prison conditions in which plaintiff complains that there is a grave and immediate threat here at Easterling Correctional Facility to plaintiffs health..... mentally and phusically of well being. Plaintiff complains that this grave and immediate threat begans and is not limited to the lack of Alabama Department of Correctional Officers to maintain the acts of violence within the confinement of Easterling Correctional Facility. Inmates are literally climing fences here to detach the lighting rods and making serious life threating instruments to pierce the bodies of [any] individual... that may get in the way of their drugs being smuggled in, their sexual partners or their gang affiliate(s) ect., there is no control over, to what extreme these individuals (other inmates) will go to obtain what they seek. Plaintiff complains that Commissioner Jefferson Dunn and Warden Walter Myers [herein after "defendants"] are not concerned at the number of ambulance and Life flights that visit this particular camp. I have witness the Life flight (helicopter) come to this particular camp at Least 3 time within 7 days within the past mouth or so. The percentage of getting stabbed here at Easterling Correctional Facility is well over 80% chance without notice. Plaintiff complains that this grave and immediate threat unconsciously Keeps plaintiff on a defense for Life that in reality is a tense situation causing complete stress 24 hours on a daily basis.

Plaintiff is claiming the injuries come from emotional harm that is phusically injurious to the plaintiffs mind state". The deprivation of First Amendment rights entitle a plaintiff to judicial relief wholly aside from "any" physical injury he can show, or any mental or emotional injury he may have incurred." Searles v. Bebber, 251 F.3d 869. 876 (10th Cir. 2001).

Plaintiff exhausted the remedies within Easterling Correctional Facility by requesting to see a mental health doctor through the sick/call procedures. Here the defendants reffered plaintiff to Mr. Hampton inwhich plaintiff assumed Mr. Hampton to be a mental health doctor. Mr. Hampton thereafter talking to plaintiff reffered plaintiff to the shift office stating that plaintiff did not have a mental dispute or issue but Mr. Hampton stated that plaintiff had a security dispute or issue. Mr. Hampton told plaintiff to go to the shift office and report what was said during this so called "mental evaluation." Plaintiff did so by complaining to Sergent LoveJoy ... Sgt. Lovejoy stated that the facility was aware of the removal of lighting rods, the removal of fence material ect. to make knives and other piercing objects that could and has caused bodily harm to inmates. Plaintiff has thereafter requested to see a doctor on the mental strain caused by the tension of everyday living among these violent inmates.

Officials responsible for prison inmates may be held liable under the Eighth Amendment of the United States Constitution for acting with "deliberate indifference" to an inmate's health or welfare when the official knows the inmate faces "a substantial risk of serious harm" and with such knowledge disregards the risk by failing to take reasonable measures to abate it. Farmers v. Brennan, 511 U.S. 825.828 (1994). A constitutional violation occures only "when a substantial risk of serious harm, of which the official subjectively aware, exists and the official does not 'respond [] reasonably to the risk.' Farmer v. Brennan, 511 U.S. 825. 114 S.Ct. 1970. 1982-83. 128 L.Ed. 2d. 811 (1994) A plaintiff must show that the constitutional violation caused his injuries." Marsh v. Butler County, Al., 268 F.3d 1014.1028 (11th Cir. 2001).

Plaintiff has set forth a cognizable claim of "deliberate indifference to a serious medical need of mental health in which plaintiff shows that through the exhaustion of remedies here ~~Eo~~ at Easterling Correctional Facility. Plaintiff shows that he is mentally distraught and it causes tension throughout plaintiffs body that will not allow plaintiff to properly function in this overcrowded Facility as far as sleeping, interacting with other inmates, exercising ect. Plaintiff being totally blind in one eye does not began to help in navigating throughout this Facility either. The response plaintiff is receiving from the defendants are not helping the situation here ... they act as if they are not concerned.

In articulating the scope of inmates' right to be free from deliberate indifference. ... the Supreme Court has ... emphasized that not 'every claim by a prisoner that he has not receieved adequate medical treatment states a violation of the Eight Amendment.' Estelle, 429 U.S. at 105. 97 S.Ct. at 291; Mandel, 888 F.2d at 787. Medical treatment violates the eight amendment [only] when it is 'so grossly incompetent, inadequate, or excessive as to shock the conscience or to be intolerable to fundamental fairness.' Rogers, 792 F.2d at 1058

Here plaintiff is claiming a state of mentally being distraught! Plaintiff complains that each government official whether contracted to Alabama Department of Corrections or employeed is acting through the officials own individual actions, has violated the Constitution. Ashcroft v. Iqbal, 556 U.S. 662. 676. 129 S.Ct. 1937. 1948 (2009).

WHEREFORE the premises considered plaintiff suits under 42 U.S.C §§ 1983. plaintiff request to be awarded substantial monetary damages of One Hundred Thousand dollars against the Alabama Department of Corection, Commissioner Jefferson Dunn in his individual capacity, Warden Walter Myers in his individual capacity injunction and declaratory relief. Done this 26th day of September 2017.

Darryle Lee Thomas

Darryle Lee Thomas
268749

I Darlye Lee Thomas declare under the penalty of pejiury that the information herein is the truth witnessed by the Public (Notory Public) and scribed by my signature below. Done this 26th day of September 2017.

NOTARY PUBLIC

09-23-2018
MY COMMISSION EXPIRES

DARRLE LEE THOMAS
268749
Easterling Correctional Facility
200 Wallace DR.
Clio, Al. 36017

CERTIFICATE OF SERVICE

I Darryle Lee Thomas certify that I have served a copy of the foregoing Complaint under section 42 U.S.C. 1983 AND 28 U.S.C. Section 1331 to the following individuals listed below by placing the same in the Legal mailbox here at Easterling Correctional Facility at 200 Wallace Drive in Clio Alabama 36017 Done on this 26th day of September 2017.

United States District Court (Middle District)
One Church Street
Montgomery, Al. 36104-4018

Commissioner Jefferson Dunn (Ala. Dept. Of Corrections)
301 South Ripley Street
Montgomery Al, 36130-1501

Warden Walter Myers
Easterling Correctional Facility
200 Wallace DR.
Clio, Al. 36017

Darryle Lee Thomas
Darryle Lee Thomas
268749

Darryle Lee Thomas AIS# 268749
200 Wallace Dr
Clio, Al 36017

United States District Court (Middle District)
One Church Street
Montgomery, Alabama 36104-4018